

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

FOUNDRY NETWORKS, INC.,	)	
	)	
Plaintiff,	)	
v.	)	C. A. No.: 06-470-SLR
	)	
ALCATEL USA RESOURCES, INC.,	)	
ALCATEL INTERNETWORKING, INC.,	)	
COMPAGNIE FINANCIÈRE ALCATEL, and	)	
ALCATEL S.A.,	)	
	)	
Defendants.	)	

**NOTICE THAT PENDING MOTION FOR EXTENSION OF TIME (D.I. 47),  
AS AMENDED (D.I. 50), IS UNOPPOSED**

As confirmed by the attached e-mail correspondence from Foundry's counsel (Exhibit A), Foundry is not opposed to "Defendants' Motion for Extension of Time to Serve and File Reply Briefs in Support of Motions to Dismiss" (D.I. 47), as amended (D.I. 50) (the "Motion").

Foundry has declined, however, to either (a) affirmatively inform the Court that the motion, as amended, is unopposed; or (b) enter into a stipulation mooting the motion. *See* Exhibit A. Therefore, Defendants respectfully request that the Court enter an order, in the form attached hereto, granting the Motion and giving Defendants an extension of time to January 25, 2006, to file and serve their reply briefs in support of the Motion to Dismiss for Lack of Personal Jurisdiction filed by defendants Alcatel S.A, and Compagnie Financière Alcatel (D.I. 30) and the Motion to Dismiss Amended Complaint for failure to state a claim filed by defendants Alcatel USA Resources, Inc. and Alcatel Internetworking, Inc. (D.I. 35).

YOUNG CONAWAY STARGATT & TAYLOR LLP

Dated: January 9, 2007

  
\_\_\_\_\_  
Josy W. Ingersoll (#1088) [jingersoll@ycst.com]  
John W. Shaw (#3362) [jshaw@ysct.com]  
Karen L. Pascale (# 2903) [kpascale@ycst.com]  
The Brandywine Building  
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*Of Counsel:*

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**CERTIFICATE OF SERVICE**

I, Karen L. Pascale, Esquire, hereby certify that on January 9, 2007, I caused to be electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to the following counsel of record:

Philip A. Rovner, Esquire [*provner@potteranderson.com*]  
 POTTER ANDERSON & CORROON LLP  
 Hercules Plaza  
 1313 N. Market Street  
 Wilmington, DE 19801

I further certify that on January 9, 2007, I caused a copy of the foregoing document to be served by e-mail and hand delivery on the above-listed counsel of record, and on the following non-registered participants in the manner indicated:

**By E-Mail**

William L. Anthony, Esquire [*wanthony@orrick.com*]  
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YOUNG CONAWAY STARGATT & TAYLOR, LLP

*Karen L. Pascale*

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 1000 West Street, 17th Floor  
 Wilmington, Delaware 19801  
 (302) 571-6600  
*Attorneys for Defendants*

# **EXHIBIT A**

**Pascale, Karen**

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**From:** Rovner, Philip A. [mailto:[provner@potteranderson.com](mailto:provner@potteranderson.com)]  
**Sent:** Tuesday, January 09, 2007 2:42 PM  
**To:** Pascale, Karen  
**Subject:** RE: Foundry v. Alcatel (C.A. No. 06-470-SLR)

Karen: feel free to say whatever you like. Bottom line: had you asked our position on your request for a further extension prior to filing it, as our rules provide, I would have provided it to you. Our position now, as it would have been yesterday, is as Jim Parsons indicated: We do not intend to oppose your request for a further extension until January 25.

-----Original Message-----

From: Pascale, Karen [mailto:[kpascale@ycst.com](mailto:kpascale@ycst.com)]  
Sent: Tuesday, January 09, 2007 2:38 PM  
To: Rovner, Philip A.  
Subject: RE: Foundry v. Alcatel (C.A. No. 06-470-SLR)

Foundry is on record with the court as opposing any extension beyond December 18 (see D.I. 48). Foundry has never withdrawn its opposition, or given any indication that its position on the pending motion had changed (which I presume it has an obligation to do).

-----Original Message-----

From: Rovner, Philip A. [mailto:[provner@potteranderson.com](mailto:provner@potteranderson.com)]  
Sent: Tuesday, January 09, 2007 2:29 PM  
To: Pascale, Karen  
Subject: RE: Foundry v. Alcatel (C.A. No. 06-470-SLR)

Had you contacted me prior to filing your latest request for an extension, you could have learned of Foundry's position for yourself. I believe that is what is required under our local rules.

-----Original Message-----

From: Pascale, Karen [mailto:[kpascale@ycst.com](mailto:kpascale@ycst.com)]  
Sent: Tuesday, January 09, 2007 1:44 PM  
To: Rovner, Philip A.  
Subject: Foundry v. Alcatel (C.A. No. 06-470-SLR)

Dear Phil: I am informed by Eric Lucas that Jim Parsons is not opposed to Alcatel's request for an extension of time to January 25 on its reply briefs in the 06-470-SLR matter. Therefore, I would appreciate your informing the Court that Alcatel's motion (D.I. 47), as amended on 1/8/07 (D.I. 50), is unopposed. On the other hand, if you would prefer to address the issue via a stipulation, I would be happy to forward one for your review and consideration.

Sincerely,

Karen

Karen L. Pascale, Esquire  
Young Conaway Stargatt & Taylor, LLP  
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P.O. Box 391  
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[kpascale@ycst.com](mailto:kpascale@ycst.com)

THIS MESSAGE MAY CONTAIN CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATIONS OR OTHER PROTECTED INFORMATION. IF YOU BELIEVE YOU ARE NOT AN INTENDED RECIPIENT (EVEN IF THIS MESSAGE WAS SENT

TO YOUR E-MAIL ADDRESS), YOU MAY NOT USE, COPY, OR RETRANSMIT IT. IF YOU BELIEVE YOU RECEIVED THIS MESSAGE BY MISTAKE, PLEASE NOTIFY US BY RETURN E-MAIL, AND THEN DELETE THIS MESSAGE. THANK YOU FOR YOUR COOPERATION.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

FOUNDRY NETWORKS, INC., )  
                                )  
Plaintiff,                 )  
v.                             ) C. A. No.: 06-470-SLR  
                                )  
ALCATEL USA RESOURCES, INC., )  
ALCATEL INTERNETWORKING, INC., )  
COMPAGNIE FINANCIÈRE ALCATEL, and )  
ALCATEL S.A.,                 )  
                                )  
Defendants.                 )

**ORDER**

At Wilmington this \_\_\_\_ day of January, 2007, having considered Defendants' motion for extension of time (D.I. 47), as amended (D.I. 50) (the "Motion"), to serve and file reply briefs in support of their motions to dismiss (D.I. 30 and 35), and having been advised that Plaintiff, Foundry Networks, Inc., does not oppose the Motion;

IT IS HEREBY ORDERED that that the time for Defendants to serve and file reply briefs in support of the Motion to Dismiss for Lack of Personal Jurisdiction filed by defendants Alcatel S.A, and Compagnie Financière Alcatel (D.I. 30) and the Motion to Dismiss Amended Complaint for failure to state a claim filed by defendants Alcatel USA Resources, Inc. and Alcatel Internetworking, Inc. (D.I. 35) is extended from December 11, 2006 to January 25, 2007.

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United States District Judge